

No. 9(1)81-6Lab./5582.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s The Karnal Central Cooperative Bank Ltd., Karnal.

BEFORE SHRI BANWARILAL DALAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 158 of 80

between

Shri Satya Vir Singh, workman and the management of M/s. The Karnal Central Cooperative Bank Ltd. Karnal.

Present.—

Shri Satya Vir Singh, workman in person.
Shri Balwan Singh, for the Management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,—vide his order No. ID/KNL/7-80/ 35131, dated 1st July, 1980 under section 10(i) (c) of the I.D. Act for adjudication of the dispute existing between Shri-Satya Vir Singh, workman and the management of M/s. The Karnal Central Coop. Bank Ltd, Karnal. The term of the reference was:—

Whether the action of the management in terminating the service of Shri Satya Vir Singh as Steno Typist on his subsequent employment as Clerk-cum-Typist was justified and in order? If not to what relief is he entitled?

The term of reference was corrected,—vide corrigendum notification No. ID/KNL/71-80/4844—47, dated 29th January, 1981 as under:—

Whether the action of the management in terminating the service of Shri Satya Vir Singh, Steno Typist was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance filed their respective pleadings, on the basis of which the following issues were framed:—

- (1) Whether the Manager was competent to appoint the petitioner?
- (2) Whether the applicant/workman is estopped from pursuing the dispute referred to this court by his act of joining his duties as typist clerk?
- (3) As per the term of reference?

The management examined Shri Balwan Singh, Manager as their sole witness and closed their case on 23rd September, 1981. The workman examined himself as his only witness and closed his case on 20th November, 1981. I heard the learned representatives of the parties and decide the issues as under:—

Issue No. 1:—

The management witness MW-1 has deposed that the power of appointment of the bank employees vested in the Board of Directors,—vide rule No. 9-8 of the Haryana Central Coop. Bank staff services common cadre rules but the typist on daily wages could be appointed by the Manager or Managing Director as the case may be. The workman was appointed by the Manager on daily wages,—vide letter No. 1540, dated 28th December, 1978 copy of which had been marked as Ex. M-1. It is, therefore, establish that the Manager was competent to appoint the petitioner. The issue is accordingly decided in favour of the workman.

Issue No. 2:

It has been admitted on both sides that the workman was removed from service on 2nd January, 1980. He was again appointed on daily wages on 25th January, 1980. He was joined on 28th January, 1980. The

management has alleged that by joining the service of the management again on 28th January, 1980, the workman was estopped to raise the present dispute. But it is a well established rule of law through various judgements of the Honourable Supreme Court of India, one such appearing in 1969 II LLJ page 708 that subsequent re-employment does not stand bar to the demand for reinstatement against the termination from previous service. I, therefore, hold that the workman is not estopped from raising a dispute leading to this reference on his joining as typist clerk with the respondent. The issue is accordingly decided against the management.

Issue No. 3

It is an admitted fact on both side that the workman was appointed for the first time on 28th November, 1978 and his service were terminated on 2nd January, 1980. No notice or retrenchment compensation was given to the workman. The termination letter Ex. M-2 contains the words 'services are no longer required' meaning thereby that the management retrenched the workman and while doing so the management did not comply with the provisions contained in section 25F with regard to retrenchment. The non-compliance of the provisions of section 25F renders the order of termination void abinitio. The workman has not pleaded anywhere that he remained unemployed during the period from the termination onwards nor he led any evidence on this fact. The order of termination is set aside and the workman is reinstated with continuity of service but without back wages presuming that he remained gainfully employed. The reference is answered and returned accordingly.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated the 19th June, 1982.

Endorsement No. 1438, dated the 23rd June, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 9(1) 82-6 Lab./6595.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court Rohtak in respect of the dispute between the workmen and the management of M/s. Haryana Roadways, Rohtak.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT HARYANA, ROHTAK.

Reference No 172 of 80

Between

SHRI OM PARKASH, WORKMAN AND THE MANAGEMENT OF M/s. HARYANA ROADWAYS, ROHTAK.

Present: —

Shri S. N. Vats for the applicant.

Shri S. Singal for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,—vide his order No. ID/RTK/7-80/37581, dated 17th July, 1980 under section 10 (i) (c) of the I.D. Act for adjudication of the dispute

existing between Shri Om Parkash, workman and the management of M/s. Haryana Roadways, Rohtak. The term of the reference was:—

“Whether the termination of services of Shri Om Parkash was justified and in order? If not, to what relief is he entitled?”

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance in response to the same, filed their respective pleadings, on the basis of which the only issue as under was framed:—

“Whether the termination of services of Shri Om Parkash was justified and in order? If not, to what relief is he entitled?”

The evidence of the management was closed on 3rd March, 1982. The management examined Shri Attar Singh, Clerk, respondent management. The workman examined himself as his witness and closed his case. I heard the learned representatives of the parties and decide the issues under:

Issue No 1:—

The facts of the case are almost admitted on both sides which are that the workman was appointed on adhoc basis,—vide Ex. MW-1/1 in Haryana Roadways, Baiwani, wherefrom he was transferred to Rohtak. The workman was being appointed sometimes for a period for three months and sometimes for a period of two months as before after giving one day or two day break in his service and this process continued upto 14th October, 1979 after which his service period was not extended. His first appointment was for six months,—vide order Ex. MW-1/1 which is dated 4th March, 1977. The management has contended that the service of the workman were despatched with in accordance with the terms and conditions of his appointment and no notice or compensation was required interminating his services.

While on the other hand the workman has contended that he has remained in continuous service from 4th March, 1977 to 14th October, 1979 and he was entitled to receive the retrenchment compensation under section 25(F) of the I. D. Act in view of the settled law of the land through various decision of the Supreme Court of India.

From the evidence of the parties and also from the record it is established that the workman has remained in continuous service without any break though shown in orders of appointment. In fact these orders are passed after the expiry of the period for which the workman was appointed to take effect retrospectively and the workman had been doing his duties on the dates of breaks shown in the appointment letters. The orders Ex. MW-1/5 to MW-1/12 are cyclostyled containing the orders of termination as well as the order of reappointment and all these orders are passed after about a month or so from the date on which the service of the workman are alleged to have been discontinued and also the order of reappointment is to take effect one month back from the date of the passing of the appointment order which goes to establish the unfair labour practice practised by the respondent management. The order of termination in view of the above discussion is neither justified nor in order, the same is void *abinitio* as the management has failed to comply with the mandatory provisions of section 25(F) of the I.D. Act. The workman is therefore entitled to reinstatement with continuity of service and with full back wages. The reference is answered and returned accordingly.

The 23rd June, 1982,

BANWARI LAL DALAL,

Presiding Officer,

Labour Court Haryana,
Rohtak.

Endorsment No. 1461 dated 24th June, 1982.

Forwarded (four copies) to the Secretary to Govt. Haryana, Labour and employment Departments Chandigarh as required under section 15 of the I. D. Act;

BANWARI LAL DALAL,

Presiding Officer,

Labour Court Haryana,
Rohtak.